

**REMARKS**

Claims 1, 2, 5, 6, 8, 10, 13-17, 20-23, 30 and 36-38 are pending in this application, claims 21-23 and 30 having been withdrawn from consideration. By this Amendment, claims 1, 2, 5, 6, 8, 10, 13-17, 20-23 and 30 are amended, claims 3, 4, 7, 9, 11, 12, 18, 19, 24-29 and 31-35 are cancelled, and claims 36-38 are added. Support for the amendments to claims 1, 2, 5, 6, 8, 10, 13-17, 20-23, 30 and 36-38 can be found, for example, in original claims 1, 2, 5, 6, 8, 10, 13-17, 20-23, 30 and 36-38. No new matter is added. In view of the foregoing amendments and following remarks, reconsideration and allowance are respectfully requested.

**Information Disclosure Statement**

Attached to the Office Action is a Form PTO-1449 initialed to acknowledge the fact that the Examiner has considered most of the references cited in the Information Disclosure Statement (IDS) filed January 12, 2004. However, the European reference cited in this IDS has not been considered.

As indicated in the IDS, the references cited therein were cited by or submitted to the Office in parent Application No. 09/446,024, filed December 16, 1999. An initialed copy of a Form PTO-1449 listing this reference was attached to the January 31, 2002 Office Action in that application. Thus, this reference was clearly considered in the parent application. As indicated in MPEP §609.02A2, when examining a continuation application, "[t]he examiner will consider information which has been considered by the Office in a parent application" (emphasis added).

In addition, as indicated in MPEP §609.04(a)III, "[i]f information cited or submitted in a prior application relied on under 35 U.S.C. 120 was not in English, a concise explanation of the relevance of the information to the new application is not required unless the relevance of the information differs from its relevance as explained in the prior application" (emphasis

added). Furthermore, as indicated in the IDS filed in the parent application on December 16, 1999, the references were cited in a counterpart foreign application and an English language version of the international search report was attached. This constitutes a concise explanation of the relevance of the European reference. MPEP §609.04(a)III.

For all of these reasons, the Applicants respectfully request that the European patent reference be considered by the Examiner in the present application, and that such consideration be acknowledged.

#### Restriction

As indicated above, claims 21-23 and 30 have been withdrawn from consideration. Each of claims 21-23 and 30 depends from and includes all of the limitations of elected claim 1. Accordingly, upon allowance of claim 1, claims 21-23 should be rejoined, considered in this application and allowed.

With regard to claim 30, it is respectfully submitted that this dependent claim further defines the invention of claim 4. Thus, a thorough examination of claim 4 would uncover any rejections to claims 30. Therefore, there would not be an undue burden to examine claim 30 with claim 4. As a result, claim 30 should be considered in the present application.

#### Priority

As noted in the Office Action, the instant application is a continuation of U.S. Patent No. 09/446,024, which is a national stage application of PCT/FR98/01442 filed July 6, 1998. In the national stage application, a copy of FR 97/08815 (hereinafter "the priority document") was transmitted by the International Bureau. See March 1, 2000 Notification of Acceptance. As such, the Applicants are not required to file a further certified copy of the priority document in the present application. Thus, the Examiner is respectfully requested to acknowledge receipt of the priority document transmitted by the International Bureau.

Objections to the Specification

The Office Action objects to the specification, asserting that Figures 4 and 5 each contain more than one panel, which are not separately identified or described in the specification. By this Amendment, the specification is amended to separately identify and describe these individual panels. Accordingly, withdrawal of the objection is respectfully requested.

Rejection Under 35 U.S.C. §101

The Office Action rejects claims 4, 7, 12, 31, 32, 34 and 35 under 35 U.S.C. §101 as being directed to non-statutory subject matter. By this Amendment, claims 4, 7, 12, 31, 32, 34 and 35 are cancelled, rendering the rejection moot. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

Rejection Under 35 U.S.C. §112, Second Paragraph

The Office Action rejects claims 1-6, 8-10, 13-17, 20, 25-27, 31 and 32 as indefinite under 35 U.S.C. §112, second paragraph. By this Amendment, claims 3, 4, 9, 25-27, 31 and 32 are cancelled, rendering the rejection moot as to those claims. As to the remaining claims, Applicants respectfully traverse the rejection.

Claims 1, 2, 5, 6, 8, 10 and 20 are alleged to be indefinite for reciting the phrase "nucleic material." By this Amendment, claims 1, 2, 5, 6, 8, 10 and 20 are amended to replace the phrase "nucleic material" with the phrase "retroviral RNA molecule." Applicants submit that the phrase "retroviral RNA molecule" is well-understood by those of ordinary skill in the art.

Claims 8 and 13-17 are alleged to be indefinite for reciting the phrase "nucleic probe." By this Amendment, claims 8 and 13-17 are amended to replace the phrase "nucleic probe" with the term "probe." Applicants submit that the term "probe" is well-understood by those of ordinary skill in the art.

Claims 8 and 9 are alleged to be indefinite for reciting the phrase "highly stringent conditions." Applicants submit that there is no requirement that claims recite definitions for terms having meanings understood by those of ordinary skill in the art. A cursory search of art relating to hybridization will reveal that the terms "high" and "low" stringency conditions respectively have a scope that is appreciated by skilled artisans. That is, a skilled artisan can readily determine whether hybridization is being conducted under highly stringent conditions.

Claim 10 is alleged to be indefinite for reciting the phrase "amplification by polymerization of an RNA or DNA." By this Amendment, claim 10 is amended to replace the phrase "amplification by polymerization of an RNA or DNA" with the term "amplification." Applicants submit that the term "amplification" is well-understood by those of ordinary skill in the art.

Applicants submit that one of ordinary skill in the art could readily discern the metes and bounds of the pending claims. Accordingly, claims 1, 2, 5, 6, 8, 10, 13-17 and 20 are definite. Reconsideration and withdrawal of the rejection are respectfully requested.

Rejections Under 35 U.S.C. §102

A. Perron et al. (U.S. Patent No. 6,582,703)

The Office Action rejects claims 7, 12, 33 and 34 under 35 U.S.C. §102 over U.S. Patent No. 6,582,703 to Perron et al. By this Amendment, claims 7, 12, 33 and 34 are cancelled, rendering the rejection moot. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

B. Perron (U.S. Patent No. 6,001,987)

The Office Action rejects claims 7, 12, 33 and 34 under 35 U.S.C. §102 over U.S. Patent No. 6,001,987. By this Amendment, claims 7, 12, 33 and 34 are cancelled, rendering the rejection moot. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

C. Pauley and Waterston

The Office Action rejects claims 7, 12, 34 and 35 under 35 U.S.C. §102 over Accession No. AC000064 to Pauley and Waterston. By this Amendment, claims 7, 12, 34 and 35 are cancelled, rendering the rejection moot. Accordingly, reconsideration and withdrawal of the rejection are respectfully requested.

New Claims

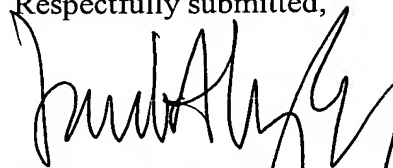
By this Amendment, new claims 36-38 are presented. Claims 36-38 depend variously from claims 1 and 2 and, thus, are allowable at least for the reasons discussed above with respect to claims 1 and 2.

Conclusion

In view of the foregoing, it is respectfully submitted that this application is in condition for allowance. Favorable reconsideration and prompt allowance of claims 1, 2, 5, 6, 8, 10, 13-17, 20-23, 30 and 36-38 are earnestly solicited.

Should the Examiner believe that anything further would be desirable in order to place this application in even better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number set forth below.

Respectfully submitted,



William P. Berridge  
Registration No. 30,024

Jacob A. Doughty  
Registration No. 46,671

WPB:JAD/hs

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**OLIFF & BERRIDGE, PLC**  
**P.O. Box 19928**  
**Alexandria, Virginia 22320**  
**Telephone: (703) 836-6400**

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